

**VIRGINIA BOARD OF NURSING
MINUTES
November 17, 2009**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:05 A.M. on November 17, 2009 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Lynne M. Cooper, Citizen Member, President

BOARD MEMBERS PRESENT:

Patricia M. Selig, R.N., F.N.P., Ph.D., Vice President
Peregrin C. Francisco, R.N., M.S.A., Secretary
Joyce A. Hahn, Ph.D.; APRN; NEA-BC
Brenda L. Hale, R.N.
Jeanne E. Holmes, Citizen Member
Florence Jones-Clarke, R.N., M.S.
Patricia C. Lane, R.N., B.S.N., M.B.A., H.C.A.
Evelyn Lindsay, L.P.N.
Judith E. Piersall, R.N., B.S.N.
Karen K. Schultz, Ph.D., M.B.A., Citizen Member

BOARD MEMBER ABSENT:

John M. Horn, L.P.N.

STAFF PRESENT:

Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director
Gloria D. Mitchell, R.N., M.S.N., M.B.A., Deputy Executive Director
Jodi P. Power, R.N., J.D., Deputy Executive Director
Brenda Krohn, R.N., M.S., Deputy Executive Director
Paula B. Saxby, R.N., Ph.D., Deputy Executive Director
Jessica Ressler, R.N.C., M.S.N., Nursing Education Consultant
Linda Kleiner, R.N., Discipline Case Manager
Ann Tiller, Compliance Manager
Amy Davis, Administrative Assistant

OTHERS PRESENT:

Howard M. Casway, Senior Assistant Attorney General (joined later)
Sandra Whitley Ryals, Director, Department of Health Professions
Elaine Yeatts, Policy Analyst, Department of Health Professions
Diane Powers, Director of Communications, Department of Health Professions
Charissa Parsons, representative from Hancock, Daniel, Johnson & Nagle
Darlene Lachet, Dean of Instruction, Bryant and Stratton College
Nina Beaman, Program Director for Nursing, Bryant and Stratton College

**ESTABLISHMENT OF
A QUORUM:**

With eleven members of the Board present, a quorum was established.

ANNOUNCEMENTS:

- Ms. Douglas introduced Diane Powers, Department of Health Professions, Director of Communications.
- Ms. Douglas was congratulated on being accepted into the NCSBN Institute of Regulatory Excellence Fellowship Program. The IRE program is a 4 year commitment that provides an opportunity for professional development related to regulation. Participation is sponsored by NCSBN, there is no cost to the Board of Nursing.
- Ms. Douglas acknowledged Maria Holt's retirement. Ms. Holt has 33 years of state service, all with the Board of Nursing. Ms. Holt was the primary receptionist for the Board for approximately 26 years of those 33 years.
- Ms. Douglas informed the Board that Emily Wingfield is no longer with the Department of Health Professions. She accepted a position with another state agency effective November 1, 2009.

ORDERING OF AGENDA: The agenda was reviewed and ordered.

CONSENT AGENDA: The Board removed three items from the proposed consent agenda. Ms. Lane moved to accept the consent agenda which includes:

Minutes:

September 14, 2009 – Dr. Selig
September 15, 2009 – Board Meeting – Ms. Cooper
September 16, 2009 – Panel – Ms. Cooper
September 16, 2009 – Panel – Dr. Selig
September 17, 2009 – Panel – Ms. Cooper
October 13, 2009 – Telephone Conference Call – Ms. Cooper
October 21, 2009 – Telephone Conference Call – Dr. Selig

Reports:

Finance Report
Board of Nursing Monthly Tracking Log-Licensure & Disciplinary Statistics
Health Practitioners Monitoring Program Report of Statistics
NCLEX RN and PN exam
Medication Aide Registry Update

Ms. Lindsay moved to accept the minutes below removed from the consent agenda as corrected.

September 16, 2009 – Quorum – Ms. Cooper
October 21, 2009 – Panel – Ms. Francisco

REPORTS:

Executive Director Report:

- Ms. Douglas clarified an error on the Executive Director Report, page 2, where Ms. Douglas was incorrectly identified as Executive Director of the Virginia Nurses Association.
- Dr. Selig requested additional information regarding immunization issues, and adult immunization protocol approval. Ms. Krohn explained the Board of Nursing is responsible for the review and approval of immunization protocols for adults.

Dr. Selig moved to accept the Executive Director Report. The motion was seconded and carried unanimously.

Massage Therapy Advisory Board:

Ms. Douglas and Ms. Krohn provided an overview of the first meeting of the Advisory Board held on November 9, 2009. Ms. Francisco moved to accept the minutes of the meeting. The motion was seconded and carried unanimously.

Ms. Krohn provided an overview of the meeting of the Federation of State Massage Therapy Boards she attended in October. Virginia is the only state in the FSMTB in which a Board of Nursing regulates massage therapists. The main topic of discussion at the meeting was the MBLEX exam. The MBLEX exam is a new licensure exam for massage therapists.

Taxonomy of Error, Root Cause Analysis and Practice Responsibility (TERCAP):

A written report was submitted and Ms. Mitchell provided an update on the TERCAP project. Kevin Kenward, Director of Research for NCSBN provided training to the TERCAP team on November 10, 2009. Data tool revision is underway.

NCSBN Leadership Succession Committee:

Ms. Lane thanked for support in being elected to this committee. She has been on two out of state trips, part of a 3 day commitment every other month. She described a shift in thinking and paradigm to assuring ongoing leadership and leadership development in organization sustainability. She has provided a development plan to Ms. Jones-Clarke for feedback.

Board of Health Professions:

Ms. Cooper reported information from the most recent Board of Health Professions meeting. The Board of Dentistry is participating in a pilot program involving possible recovery of costs related to conducting disciplinary hearings.

Mr. Casway joined the meeting.

EDUCATION:

Education Special Conference Committee Minutes:

Ms. Piersall reported on items of interest from the meeting held November 10, 2009, specifically regarding certain proprietary programs. Ms. Piersall moved to accept the minutes as submitted. The motion was seconded and carried unanimously.

Education Issues:

Ms. Ressler reported on the following issues related to nursing education:

- Employers in some areas are not hiring new graduates.
- Lack of clinical sites.
- Lack of integrity in nursing education program administration, especially in proprietary programs.
- Frequent turnover of program directors.

- Students that have not been successful in one program that transfer to another program.
- Clinical experiences in northern Virginia are being obtained in D.C. and Maryland.
- Some proprietary programs have a very large number of students enrolled.
- Failure for programs to report lack of faculty.
- Comprehensive exam is being used as a barrier to graduation.
- Virginia has 24 proprietary practical nursing education programs; 10 proprietary associate degree nursing education programs; and 1 proprietary baccalaureate degree nursing education program. Surrounding states that include West Virginia, Tennessee, Kentucky, and Maryland have no proprietary nursing education programs. DC has 4 proprietary practical nursing education programs and 1 proprietary registered nursing education program. North Carolina has 1 proprietary practical nursing education program.
- 21 practical nursing education programs in Virginia have a NCLEX pass rate of below 80%; 12 of those programs are proprietary programs.
- Currently there are 7 inquiries for new nursing education programs, 4 associate degree programs and 3 practical nursing programs.

Dr. Schultz questioned how and when Board members will address these issues. Ms. Douglas indicated regulations govern and beginning process of periodic review and update. Dr. Schultz requested a timeline to address these issues. Ms. Jones-Clarke suggested Board counsel review for any legal remedies to address these problems and expressed concern over the issue. Ms. Piersall raised the issue of a legislative/regulatory change to prohibit proprietary programs that has occurred in surrounding states. Ms. Jones-Clarke added that charging fees for visits (as proposed) may serve as a deterrent but does not fully address the problem. Ms. Cooper noted the Education Committee is meeting this afternoon and would be the appropriate group to discuss these issues and to make recommendations on how to address them. She requested a “task force” to be named to address these issues and to discuss an expeditious timeframe.

RECESS: The Board recessed at 10:50 A.M.

RECONVENTION: The Board reconvened at 11:00 A.M.

POLICY FORUM: **Healthcare Workforce Data Center – Dr. Elizabeth Carter, Director**
 Dr. Carter provided a summary of the history regarding establishing the Healthcare Workforce Data Center through the Workforce Investment Act designated by Governor Kaine. The purpose is to improve the healthcare system in the Commonwealth by improving data collection and measurement of the Commonwealth’s healthcare workforce through regular assessment of workforce supply and demand. Information included year one accomplishments and proposed activities for year two. There is a projected shortage of 1,500 physicians and 22,600 registered nurses in Virginia by 2020.

OPEN FORUM: There was no one present to address the Board during the open forum.

LEGISLATION/REGULATION:

Proposed Regulations to Increase and Add Fees:

Ms. Douglas reviewed information including a NOIRA to consider fee increases for all occupations within the Board of Nursing, draft proposed regulations with increased fees (revised) and when applies, projected revenue and expenditure reports and time and financial commitment report to establish nursing education program, all provided to the Board. Charles Giles, Department of Health Professions Finance Department, shared information with the Board regarding a projected \$11.7 million shortfall for the FY2014 budget. Mr. Giles reviewed the revenue and expenditure assumptions for FY 2010-2014. Also discussed was the \$636,640 of Department of Health Professions funds requested by the Department of Planning and Budget to support the General Fund, of which \$316,871 impacts the Board of Nursing budget. Other reductions include the furlough day for state employees in 2010, resulting in a Department of Health Professions cost reduction of \$51,000.

Ms. Yeatts reviewed the proposed regulations for Chapter 20, Governing Nursing Education Programs. Ms. Francisco moved to adopt the proposed regulations for fee increases regarding Chapter 20. The motion was seconded and carried unanimously.

Ms. Yeatts reviewed the proposed regulations for Chapter 25, Governing Nurse Aide Renewal or Reinstatement. Ms. Hale moved to adopt the proposed regulations for fee increases regarding Chapter 25. The motion was seconded and carried unanimously.

Ms. Yeatts reviewed the proposed regulations for Chapter 30 and 40, Governing Nurse Practitioners and Prescriptive Authority. Ms. Hale moved to adopt the proposed regulations for fee increases regarding Chapter 30. The motion was seconded and carried unanimously.

Ms. Yeatts reviewed the proposed regulations for Chapter 50, Governing Massage Therapy. Ms. Hale moved to adopt the proposed regulations for fee increases regarding Chapter 50. The motion was seconded and carried unanimously.

Ms. Yeatts reviewed the proposed regulations for Chapter 60, Governing Medication Aides. Ms. Hale moved to adopt the proposed regulations for fee increases regarding Chapter 60. The motion was seconded and carried unanimously.

DIALOGUE WITH AGENCY DIRECTOR:

Ms. Ryals discussed information that included the following topics:

- Virginia Performs Quarterly Performance Measurement for the first quarter of 2010 for the Board of Nursing.
 - Clearance rate (number of cases received vs. received), Board of Nursing rate is 97% (goal is 100%)
 - Age of Pending Caseload (percent of cases older than 250 days), Board of Nursing rate is 10% (goal is 25%).

- Time to Disposition (percent resolved within 250 days), Board of Nursing rate is 95% (goal is 90%).
- Ms. Ryals noted the significant achievements by the Board of Nursing and the Department of Health Professions related to all performance measures.
- Online application process is anticipated to begin at the end of November, 2009.

RECESS: The Board recessed at 12:30 P.M.

RECONVENTION: The Board reconvened at 1:30 P.M.

Ms. Ryals, Ms. Yeatts, Ms. Kleiner and Ms. Lane left the meeting.

EDUCATION: **Education Committee Meeting held September 15, 2009:**

Dr. Saxby reviewed the minutes from the meeting held September 15, 2009. Discussion regarding education regulations and possible changes that may be proposed during the regulatory review process will continue with the meeting scheduled later today.

Dr. Hahn moved to accept the minutes from the Education Committee meeting held September 15, 2009. The motion was seconded and carried unanimously.

NNAAP Exam Scoring Process:

Dr. Saxby reported that nurse aide candidates currently do not receive exam results the day of testing. A process is available that allows candidates to receive score reports on the day of the exam as well as a detailed report that informs the candidates know the exact steps of the skills they missed. The successful candidate would know the day of the exam that they passed but would still need to wait for their score report to be processed by Board staff and be placed on the Nurse Aide Registry. The unsuccessful candidate would know the day of the exam that they were not successful and would have the detail of the steps missed on each skill. This would allow the unsuccessful candidate to review the skill and receive help from their nurse aide program if desired. Candidates are not allowed to discuss their results with the evaluator, NACES and PearsonVUE staff have assured Board staff this process has not been a problem in any of the states where they test.

Dr. Schultz moved to adopt the new scoring process for nurse aides NNAAP exam. The motion was seconded and carried unanimously.

OTHER MATTERS: **Electronic Transmission of Transcripts:**

Ms. Douglas provided information regarding the option of nursing education programs to electronically submit transcripts to the Board of Nursing. Department of Health Professions IT staff are researching the security aspects and related costs to implement this process. There were no objections from Board members regarding implementation of the Board receiving electronic submission of transcripts.

Medication Administration Training Program/Department of

Corrections:

Ms. Krohn reviewed a proposal regarding a medication administration training program that was submitted for Board approval by the Virginia Department of Corrections.

Dr. Selig moved that the Board of Nursing approve the training program. The motion was seconded and carried unanimously.

Agency Subordinate Process:

Ms. Power reviewed the information distributed and process for the benefit of newer Board members and enhancing the agency subordinate recommendation process.

- Tracking log – overview
- Guidance Document 90-54 – Dr. Hahn moved to adopt modified Guidance Document 90-54 to reflect process. The motion was seconded and carried unanimously.
- Sanction Reference Worksheets to be included with every agency subordinate recommendation and will reevaluate after three Board cycles (March 2010)
- Offer Board members an opportunity to observe an agency subordinate informal conference.

Criteria for Summary Suspension of a License/Certificate/Registration:

A review of the general process and criteria for summary suspension was provided by Mr. Casway. The Board has the right to hold a hearing without notice to the respondent based on the potential of substantial danger to the health, safety and welfare of the public. He stated consistency in the decision making process is vital and to consider the fact that if no action is taken at this time, will the public be endangered in the future in the decision making process. It is an extraordinary remedy suspending usual due process rights

Consideration of Request to Amend Guidance Document 90-6 – PICC Line Insertion and Removal by Registered Nurses:

Ms. Douglas and Ms. Krohn reviewed the request submitted by a registered nurse to amend Guidance Document 90-6 to include removal of PICC lines by licensed practical nurses. Board staff provided researched information from other state boards of nursing. After discussion, Dr. Selig moved to approve the request to amend the guidance document. The motion was seconded but did not pass.

Election of Nominating Committee:

Ms. Cooper stated committee members are needed to meet to prepare a slate of candidates for the office of President, Vice President and Secretary. The slate will need to be provided to Board members at least 30 days prior to the election which will take place at the Board meeting in January 2010. Dr. Selig nominated Ms. Hale; Ms. Hale nominated Ms. Lindsay; and Ms. Cooper nominated herself. Ms. Hale moved to close the nominations. The motion was seconded and carried unanimously.

RECESS:

The Board recessed at 2:55 P.M.

RECONVENTION: The Board reconvened at 3:10 P.M.

Discipline Committee Future Meetings:

Ms. Douglas stated the Discipline Committee will need to meet to discuss delegated authority once current composition of the committee is confirmed with the Board president.

Additional Formal Hearing Dates for 2010:

Ms. Douglas and Ms. Power provided information to Board members regarding dates scheduled for 2010 for informal conferences that may need to be changed to formal hearings. Dates in February, April and June were provided to Board members.

Ms. Ressler and Dr. Saxby left the meeting. Ms. Lane rejoined the meeting.

CONSIDERATION OF CONSENT ORDERS AND AGENCY SUBORDINATE RECOMMENDATIONS REGARDING APPLICANTS:

CLOSED MEETING: Ms. Francisco moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 3:15 P.M. for the purpose of deliberation to reach a decision regarding consideration of consent orders and agency subordinate recommendations regarding applicants. Additionally, Ms. Francisco moved that Ms. Douglas, Ms. Mitchell, Ms. Power, Ms. Krohn, Ms. Tiller, Ms. Davis and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION: The Board reconvened in open session at 3:30 P.M.

Ms. Francisco moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and carried unanimously.

William Childress, R.N. 0001-155222

Ms. Hale moved to accept the consent order for the voluntary surrender for indefinite suspension of William Childress' license to practice professional nursing in Virginia until such time as he is able to appear before the Board and provide sufficient evidence that he is safe and competent to practice. The motion was seconded and carried unanimously.

Miranda Nunnally, C.M.T. 0019-00350

Ms. Piersall moved to accept the consent order to indefinitely suspend the massage therapy certificate of Miranda Nunnally until such time as she is able to appear before the Board and provide sufficient evidence that she is safe and competent to practice. The motion was seconded and carried unanimously.

Steven P. Twombly, C.M.T. 0019-004970

Dr. Selig moved to accept the consent order for the voluntary surrender for indefinite suspension of Steven Twombly's certificate to practice massage therapy in Virginia until such time he has successfully completed the required number of continuing education hours. The motion was seconded and carried unanimously.

David J. Smith, R.N. 0001-176104

Ms. Holmes moved to accept the consent order for the voluntary surrender for indefinite suspension of David Smith's license to practice professional nursing in Virginia until such time as he is able to appear before the Board and provide sufficient evidence that he is safe and competent to practice. The motion was seconded and carried unanimously.

Brandi G. Welcher, C.N.A. 1401-109661

Ms. Hale moved to accept the consent order to revoke the right to renew the nurse aide certificate of Brandi Welcher until such time as she is able to appear before the Board and provide sufficient evidence that she is safe and competent to practice. The motion was seconded and carried unanimously.

Victoria E. Mann, R.N. 0001-191990

Ms. Piersall moved to accept the consent order to indefinitely suspend the professional nursing license of Victoria Mann until such time as she is able to appear before the Board and provide sufficient evidence that she is safe and competent to practice. The suspension shall be stayed contingent upon verification of Ms. Mann's re-entry into the Health Practitioners Monitoring Program and thereafter remaining in compliance with the terms and conditions of the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Dana M. Link, C.N.A. 1401-126421

Ms. Lindsay moved to accept the consent order to indefinitely suspend the nurse aide certificate of Dana Link until such time as she is able to appear before the Board and provide sufficient evidence that she is safe and competent to practice. The motion was seconded and carried unanimously.

Dana M. Link, R.N. 0001-197029

Ms. Lindsay moved to accept the consent order to indefinitely suspend the professional nursing license of Dana Link until such time as she is able to appear before the Board and provide sufficient evidence that she is safe and competent to practice. The motion was seconded and carried unanimously.

Pauline Perry, R.N. 0001-066254

Dr. Hahn moved to accept the consent order to indefinitely suspend the professional nursing license of Pauline Perry until such time as she is able to appear before the Board and provide sufficient evidence that she is safe and competent to practice. The motion was seconded and carried unanimously.

Wynette W. Savannah, R.N. 0001-122555

Dr. Hahn moved to accept the consent order to indefinitely suspend the professional nursing license of Wynette Savannah until such time as she is able to appear before the Board and provide sufficient evidence that she is safe and competent to practice. The motion was seconded and carried unanimously.

Rabian Shackleford, C.N.A. Applicant

Ms. Hale moved to accept the recommended decision of the agency subordinate to deny the application of Rabian Shackleford for certification by examination as a nurse aide. The motion was seconded and carried unanimously.

Tabitha Vance, C.N.A. 1401-106939; R.M.A. Applicant

Ms. Lindsay moved to accept the recommended decision of the agency subordinate to reprimand Ms. Vance and that her application for registration as medication aide by examination by approved. The motion was seconded and carried unanimously.

Idaettae Lambert, R.M.A. Applicant

Ms. Lindsay moved to accept the recommended decision of the agency subordinate to deny the application of Idaettae Lambert for registration by examination as a medication aide. The motion was seconded and carried unanimously.

Barbara E. Speller, R.M.A. Applicant

Dr. Hahn moved to accept the recommended decision of the agency subordinate to deny the application of Barbara Speller for registration by examination as a medication aide. The motion was seconded and carried unanimously.

Brandie N. Pultz, R.M. A. Applicant

Ms. Piersall moved to accept the recommended decision of the agency subordinate to deny the application of Brandie Pultz for registration by examination as a medication aide. The motion was seconded and carried unanimously.

ADJOURNMENT:

As there was no additional business, the meeting was adjourned at 3:40 P.M.

Lynne Cooper, Citizen Member
President

Note - Copies of reports referenced can be obtained by contacting the Board of Nursing office.

VIRGINIA BOARD OF NURSING
Continued Competence Committee Meeting
November 17, 2009
Minutes

TIME AND PLACE: The meeting of the Continued Competence Committee was called to order at 3:30 P.M. on November 17, 2009 in Training Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico Virginia.

BOARD MEMBERS

PRESENT: Lynne M. Cooper, Citizen Member, Chairperson
Joyce A. Hahn, Ph.D, APRN, NEA-BC
Evelyn Lindsay, L.P.N.
Peregrin Francisco, R.N., M.S.A.

STAFF PRESENT: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director

OTHERS PRESENT: Rebecca Shaulis, Virginia Commonwealth University School of Nursing Graduate Student

DISCUSSION: The Committee reviewed the table comparing continued competence requirements for licensure for 45 boards of nursing prepared by Ms. Shaulis.

Following review of specific state requirements and trends noted, the Committee agreed upon the following principles to be recommended to the Board of Nursing when initiating the regulation promulgation process:

- Requirement for specific continuing education courses alone is not a valuable tool in assessing competency.
- Options for measurement of continued competence should be offered to licensees and could include:
 - Evidence of specialty certification from a Board approved entity;
 - Nursing related coursework for academic credit or a refresher course;
 - Combination of continuing education and practice hours (minimum 500) in a 2-year period while holding an unencumbered license;
 - Evidence based nursing related research and publication.
- Efforts undertaken to provide evidence of continued competency could be accomplished with or without compensation.

The Committee further discussed Board workloads and costs associated with monitoring/auditing licensee's compliance with continued competence requirements.

Regulations for other Board of Nursing professions, licensed nurse practitioners and certified massage therapists include an audit of 1% of

licensees. An alternative method of requesting evidence of continued competence during the investigative process was discussed.

Plans for a future joint conference with the Virginia Nurses Association were discussed and the date is to be determined. Board members suggested perhaps the grant for the conference could include the development and publication of a brochure on continued competence to be made available to licensees.

Rebecca Shaulis presented the Committee with a record of her research and publications obtained for future reference.

Ms. Douglas informed the Committee that as part of the IRE Fellowship Program, she will be attending a NCSBN conference on continued competence in January 2010.

- The Committee established the following timeline for their work.
January 2010 – full report to the Board of Nursing.
- March 2010 – consideration of a Notice of Intended Regulatory Action.
- Late spring/fall 2010 – joint Board of Nursing/Virginia Nurses Association continued competence conference.

ADJOURNMENT:

The meeting was adjourned at 4:3 P.M.

Jay P. Douglas, R.N., M.S.M, C.S.A.C.
Executive Director